

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

| | | |
|--------------------------------|---|---------------------------------------|
| ESN, LLC, |) | |
| |) | Civil Action No. 5:08-CV-20-DF |
| Plaintiff, |) | |
| |) | |
| v. |) | JURY TRIAL DEMANDED |
| |) | |
| CISCO SYSTEMS, INC. and |) | |
| CISCO-LINKSYS, LLC, |) | |
| |) | |
| Defendants. |) | |

**PLAINTIFF'S AND DEFENDANTS' STIPULATION AND AGREED MOTION FOR A
TEMPORARY STAY PENDING THE OUTCOME OF THE MOTIONS
CURRENTLY BEFORE THE COURT**

Plaintiff, ESN, LLC and Defendants, Cisco Systems, Inc. and Cisco-Linksy, LLC hereby agree, stipulate, and move the Court for a temporary stay of the proceedings until sixty (60) days after the date of the Court's rulings on the pending motions currently before the Court as follows:

WHEREAS four pending motions are currently set for hearing on November 20, 2009. Those motions are: (1) Cisco Systems, Inc.'s and Cisco-Linksy, LLC's (collectively "Cisco") Motion to Compel an Answer to Interrogatory No. 7 (Dkt. No. 123); (2) Cisco's Motion Pursuant to Patent Local Rule 3-6(b) for Leave to Supplement Their Invalidity Contentions (Dkt. No. 124); (3) Cisco's Motion to Dismiss for Lack of Standing (Dkt. No. 71); and (4) ESN's Motion to Disqualify Counsel and Impose Sanctions on Defendants and Their Counsel for Offering Financial Incentives in Exchange for Testimony (Dkt. No. 73) (collectively "the four pending motions").

WHEREAS the parties have filed two additional motions: ESN's Motion for Discovery Sanctions (Dkt. No. 146) and Cisco's Motion for a Protective Order (Dkt. No. 151) (collectively "the two additional motions").

WHEREAS ESN has requested that the case be stayed until sixty days after the Court rules on the four pending motions and the two additional motions because it contends the Court's rulings on these motions may impact the substance of its expert reports and dispositive motions and may cause it to seek additional discovery.

WHEREAS Cisco does not agree with ESN's characterization, but in the interests of compromise, Cisco is willing to agree to the requested stay.

WHEREAS ESN agrees and stipulates that it will not move to amend its complaint to add patents, causes of action, or claims to this case during or after the stay.

WHEREAS the parties understand that the consequence of this stay will require vacating and rescheduling all pretrial deadlines, including the pretrial conference and the trial. The parties understand and agree to that consequence.

WHEREAS ESN states that it intends to file a motion to have the two additional motions orally argued at the November 20, 2009 motion hearing.

WHEREAS Cisco does not agree to having the two additional motions orally argued at the November 20, 2009 motion hearing because briefing is not yet completed on those motions and Cisco desires to ensure that the Court has sufficient time to consider the papers on the two additional motions.

It is hereby agreed and stipulated by the parties, through their respective counsel, as follows:

1. The May 2010 pretrial conference and trial and all pretrial deadlines may be vacated, and the case may be stayed until sixty days after the Court rules on the four pending motions and the two additional motions.
- 2 The four pending motions may remain on calendar to be argued on November 20, 2009 and to be decided by the Court. The two additional motions may be scheduled for oral argument at the Court's discretion and convenience.
3. ESN will not amend its complaint to add patents, causes of action, or claims for relief.
4. After the Court rules on the four pending motions and the two additional motions, the parties will attempt to jointly propose a schedule addressing: (a) completion of any fact discovery that is appropriate in view of the Court's rulings; (b) all remaining pretrial dates and deadlines; and (c) the pretrial conference and trial date.

Respectfully submitted,

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